



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 31

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February 10, 2006

John C. Scully, Esq.
National Right to Work Legal Defense Foundation
8001 Braddock Road, Suite 600
Springfield, VA 22160

Re: Four Points Sheraton
31-UD-284

Dear Mr. Scully,

On June 9, 2004 we dismissed the above captioned matter on the basis that the petitioned for unit at the Four Points Sheraton (hereafter Four Points) was not coextensive with the merged bargaining unit between the Four Points and the Viceroy Hotel^{1/}. On June 22, 2004, the Petitioner, Raul Morales, filed a Request for Review^{2/}.

On September 15, 2004 the Office of Appeals denied in part and sustained in part the appeals of unfair labor practice charges 31-CA-26588 and 31-CB-11385^{3/}. The Office of Appeals sustained the appeal regarding the recognition of the Union by Four Points and the subsequent bargaining negotiations, finding that the cases be remanded to the Region and that the Regional Director should issue complaint for Section 8(a)(1) and (2) and 8(b)(1)(A) violations. Thereafter, Four Points withdrew recognition from the Union after executing a settlement on March 25, 2005.

Since recognition was withdrawn, the bargaining unit petitioned for in the above captioned matter is no longer represented by the Union. Further, no valid union security clause applies to the petitioned for bargaining unit. Therefore, after careful consideration of the current facts, we revoke our June 9, 2004 dismissal of the Petition and re-dismiss the Petition on the grounds that the petitioned for unit is not represented by a union and is not subject to a union security clause.

^{1/} The Four Points Sheraton and Viceroy Hotel in Santa Monica, CA are owned and operated by KOR Realty Group. On December 19, 2003 KOR and the Union entered into an agreement to merge the bargaining units into a single unit for purposes of collective bargaining.

^{2/} The Petition for Review was withdrawn on May 12, 2005.

^{3/} Both Charges were filed December 4, 2003 and dismissed on February 24, 2004. The Charging Party, National Right to Work Legal Defense Foundation, filed Appeals to the dismissals on April 1, 2004.

Pursuant to the National Labor Relations Board Rules and Regulations, you may obtain a review of this action by filing an appeal with the National Labor Relations Board, Washington D.C., 20570. A copy of such must be served upon each of the other parties to the proceeding, including the undersigned. This appeal must contain a complete statement setting forth the facts and reasons upon which it is based. The appeal (8 copies) should be filed with the Board in Washington D.C. 20570 by close of business February 21, 2006, except that the Board may, upon good cause shown, grant special permission for a longer period within which to file. The request for extension of time should be submitted to the Board in Washington, and a copy of any such request for extension of time should be submitted to me and to the other parties to this proceeding.

The appeal and the request for extension of time must include a statement that a copy has been served on me and on each of the other parties to this proceeding in the same or faster manner as that utilized in filing the request with the Board.

Sincerely,

Byron B. Kohn

Byron B. Kohn
Acting Regional Director

cc: Mr. Richard S. Rosenberg, Esq., Ballard, Rosenberg, Golper & Savitt, 10
Universal City Plaza, 16th Fl., Universal City, CA 91608-1097

Rene Licon, Four Points by Sheraton, 530 W. Pico Boulevard, Santa Monica,
CA 90405

Mr. Raul Morales, 2546 Kansas Avenue, Apt. 207, Santa Monica, CA 90404

Kurt Peterson, Union Representative, H.E.R.E. , Local 11, 675 S. Park View St.
Los Angeles, CA 90057

Ms. Kristin L. Martin, Esq., Davis, Cowell & Bowe, 595 Market St., #1400, San
Francisco, CA 94105